

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER**  
**DOCKET NO.:** 2007-1945-PWS-E    **TCEQ ID:** RN101387496    **CASE NO.:** 35026  
**RESPONDENT NAME:** City of Boyd

Page 1 of 3

<b>ORDER TYPE:</b>		
<input type="checkbox"/> 1660 AGREED ORDER	<input checked="" type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
<b>CASE TYPE:</b>		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input checked="" type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p><b>SITE WHERE VIOLATION(S) OCCURRED:</b> City of Boyd, located approximately 0.5 mile north on Farm-to-Market Road 730 near Boyd, Wise County</p> <p><b>TYPE OF OPERATION:</b> Public water supply</p> <p><b>SMALL BUSINESS:</b>    <input type="checkbox"/> Yes    <input checked="" type="checkbox"/> No</p> <p><b>OTHER SIGNIFICANT MATTERS:</b> There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p><b>INTERESTED PARTIES:</b> No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p><b>COMMENTS RECEIVED:</b> The <i>Texas Register</i> comment period expired on May 26, 2008. No comments were received.</p> <p><b>CONTACTS AND MAILING LIST:</b>  <b>SEP Coordinator:</b> Ms. Melissa Keller, SEP Coordinator, Enforcement Division, MC 219, (512) 239-1768  <b>TCEQ Enforcement Coordinator:</b> Ms. Andrea Linson-Mgbeoduru, Enforcement Division, Enforcement Team 2, MC 169, (512) 239-1482; Mr. Bryan Sinclair, Enforcement Division, MC 219, (512) 239-2171  <b>Respondent:</b> The Honorable Brent Wilson, Mayor, City of Boyd, P.O. Box 216, Boyd, Texas 76023  <b>Respondent's Attorney:</b> Not represented by counsel on this enforcement matter</p>		

**VIOLATION SUMMARY CHART:**

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p><b>Type of Investigation:</b>  <input type="checkbox"/> Complaint  <input checked="" type="checkbox"/> Routine  <input type="checkbox"/> Enforcement Follow-up  <input type="checkbox"/> Records Review</p> <p><b>Date(s) of Complaints Relating to this Case:</b> None</p> <p><b>Date of Investigation Relating to this Case:</b> October 24, 2007</p> <p><b>Date of NOE Relating to this Case:</b> November 16, 2007 (NOE)</p> <p><b>Background Facts:</b> This was a routine investigation.</p> <p><b>WATER</b></p> <p>1) Failure to locate/construct all wells at a distance greater than 500 feet from animal feed lots [30 TEX. ADMIN. CODE § 290.41(c)(1)(C) and Agreed Order Docket No. 2005-0507-PWS-E, Ordering Provision 2.c.iii.].</p> <p>2) Failure to secure a sanitary control easement covering land within 150 feet of the well [30 TEX. ADMIN. CODE § 290.41(c)(1)(F) and Agreed Order Docket No. 2005-0507-PWS-E, Ordering Provision 2.c.i.].</p> <p>3) Failure to maintain the system's 30,000 gallon elevated storage tank in accordance with American Water Works Association ("AWWA") standards [30 TEX. ADMIN. CODE § 290.43(c)(8) and Agreed Order Docket No. 2005-0507-PWS-E, Ordering Provision 2.a.iii.].</p> <p>4) Failure to maintain and operate the water system to provide a minimum pressure of 35 pounds per square inch ("psi") throughout the distribution system at all times [30 TEX. ADMIN. CODE § 290.44(d) and Agreed Order Docket No. 2005-0507-PWS-E, Ordering Provision 2.b.vi.].</p> <p>5) Failure to keep a thorough plant operations manual for operator review and reference [30 TEX. ADMIN. CODE</p>	<p><b>Total Assessed:</b> \$2,580</p> <p><b>Total Deferred:</b> \$0  <input type="checkbox"/> Expedited Settlement  <input type="checkbox"/> Financial Inability to Pay</p> <p><b>SEP Conditional Offset:</b> \$2,580</p> <p><b>Total Paid (Due) to General Revenue:</b> \$0</p> <p><b>Site Compliance History Classification</b>  <input type="checkbox"/> High <input type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Person Compliance History Classification</b>  <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Major Source:</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p><b>Applicable Penalty Policy:</b> September 2002</p> <p><b>Findings Orders Justification:</b> This is a Findings Order because the violation was a gross deviation from a standard of conduct common in a given industry defined as indifference to legal duty.</p>	<p><b>Corrective Actions Taken:</b></p> <p>1) The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Facility as of October 29, 2007:</p> <p>a) Submitted a copy of a complete and up-to-date plant operations manual for operator review and reference; and</p> <p>b) Submitted a copy of a complete an up-to-date chemical and microbiological monitoring plan.</p> <p><b>Ordering Provisions:</b></p> <p>2) The Order will require the Respondent to implement and complete a Supplemental Environmental Project (SEP) (See SEP Attachment A).</p> <p>3) The Order will also require the Respondent to:</p> <p>a) Within 30 days after the effective date of this Agreed Order, begin operating the water system to provide a minimum pressure of 35 psi throughout the distribution system at all times;</p> <p>b) Within 60 days after the effective date of this Agreed Order:</p> <p>i. Secure a sanitary control easement covering all properly within 150 feet of the well location from adjacent landowners and record the deeds at the county courthouse and submit sanitary easements and exception requests;</p> <p>ii. Ensure that livestock are not within 500 feet of the well location; and</p> <p>iii. Refurbish the 30,000 gallon elevated storage tank to meet AWWA standards.</p> <p>c) Within 75 days after the effective date of this Agreed Order, submit written certification and include detailed</p>

**RESPONDENT NAME:** City of Boyd  
**DOCKET NO.:** 2007-1945-PWS-E

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<p>§ 290.42(l) and Agreed Order Docket No. 2005-0507-PWS-E, Ordering Provision 2.b.iii.].</p> <p>6) Failure to complete and maintain an up-to-date chemical and microbiological monitoring plan [30 TEX. ADMIN. CODE § 290.121(a) and Agreed Order Docket No. 2005-0507-PWS-E, Ordering Provision 2.b.i.].</p>		<p>supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision Nos. 3.a. and 3.b.</p>
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Additional ID No(s): PWS ID No. 2490002



**Attachment A**  
**Docket Number: 2007-1945-PWS-E**

**SUPPLEMENTAL ENVIRONMENTAL PROJECT**

<b>Respondent:</b>	<b>City of Boyd</b>
<b>Payable Penalty Amount:</b>	<b>Two Thousand Five Hundred Eighty Dollars (\$2,580)</b>
<b>SEP Amount:</b>	<b>Two Thousand Five Hundred Eighty Dollars (\$2,580)</b>
<b>Type of SEP:</b>	<b>Pre-approved</b>
<b>Third-Party Recipient:</b>	<b>Texas Association of Resource Conservation and Development Areas, Inc. ("RC&amp;D")- Water or Wastewater Treatment Assistance</b>
<b>Location of SEP:</b>	<b>Wise County</b>

The Texas Commission on Environmental Quality ("TCEQ") agrees to offset a portion of the administrative Penalty Amount assessed in this Agreed Order for the Respondent to contribute to a Supplemental Environmental Project ("SEP"). The offset is equal to the SEP Amount set forth above and is conditioned upon completion of the project in accordance with the terms of this Attachment A.

**1. Project Description**

**A. Project**

The Respondent shall contribute to the Third-Party Recipient pursuant to the agreement between the Third-Party Recipient and the TCEQ. Specifically, Third-Party Recipient shall repair or replace failing water systems or on-site wastewater systems for low income homeowners. Third-Party Recipient shall use SEP Funds to pay for the labor and materials costs related to repairing or replacing the failing systems. The recipients will not be charged for the cost of replacing or repairing the failing systems. Third-Party recipient shall use a consistent and documented system for determining eligible participants.

The Respondent certifies that there is no prior commitment to do this project and that it is being performed solely in an effort to settle this enforcement action.

**B. Environmental Benefit**

This SEP will provide a discernible environmental benefit by protecting water sources for drinking, recreation, and wildlife from contamination.

**C. Minimum Expenditure**

The Respondent shall contribute at least the SEP Amount to the Third-Party Recipient and comply with all other provisions of this SEP.



## **2. Performance Schedule**

Within 30 days after the effective date of this Agreed Order, the Respondent must contribute the SEP Amount to the Third-Party Recipient. The Respondent shall mail the contribution, with a copy of the Agreed Order, to:

Texas Association of Resource Conservation and Development Areas, Inc.  
1716 Briarcrest Drive, Suite 510  
Bryan, Texas 77802-2700

## **3. Records and Reporting**

Concurrent with the payment of the SEP Amount, the Respondent shall provide the TCEQ SEP Coordinator with a copy of the check and transmittal letter indicating full payment of the SEP Amount to the Third-Party Recipient. The Respondent shall mail a copy of the check and transmittal letter to:

Enforcement Division  
Attention: SEP Coordinator, MC 219  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087

## **4. Failure to Fully Perform**

If the Respondent does not perform its obligations under this SEP in any way, including full payment of the SEP Amount and submittal of the required reporting described in Section 3 above, the Executive Director may require immediate payment of all or part of the SEP Amount.

The check for any amount due shall be made out to "Texas Commission on Environmental Quality" and mailed to:

Texas Commission on Environmental Quality  
Financial Administration Division, Revenues  
Attention: Cashier, MC 214  
P.O. Box 13088  
Austin, Texas 78711-3088

The Respondent shall also mail a copy of the check to the TCEQ SEP Coordinator at the address in Section 3 above.

## **5. Publicity**

Any public statements concerning this SEP made by or on behalf of the Respondent must include a clear statement that the project was performed as part of the settlement of an enforcement action brought by the TCEQ. Such statements include advertising, public relations, and press releases.



**6. Clean Texas Program**

The Respondent shall not include this SEP in any application made to TCEQ under the "Clean Texas" (or any successor) program(s). Similarly, the Respondent may not seek recognition for this contribution in any other state or federal regulatory program.

**7. Other SEPs by TCEQ or Other Agencies**

The SEP identified in this Agreed Order has not been, and shall not be, included as an SEP for the Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.





# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision September 19, 2007

TCEQ

DATES

Assigned  
PCW19-Nov-2007  
11-Mar-2008

Screening

30-Nov-2007

EPA Due

## RESPONDENT/FACILITY INFORMATION

Respondent City of Boyd

Reg. Ent. Ref. No. RN101387496

Facility/Site Region 4-Dallas/Fort Worth

Major/Minor Source Minor

## CASE INFORMATION

Enf./Case ID No. 35026

Docket No. 2007-1945-PWS-E

Media Program(s) Public Water Supply

Multi-Media

No. of Violations 6

Order Type Findings

Enf. Coordinator Andrea Linson-Mgbeodur

EC's Team EnforcementTeam 2

Admin. Penalty \$ Limit Minimum \$50 Maximum \$1,000

## Penalty Calculation Section

## TOTAL BASE PENALTY (Sum of violation base penalties)

Subtotal 1 \$2,150

## ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History 20% Enhancement Subtotals 2, 3, &amp; 7 \$430

Notes

Enhancement due to one prior Agreed Order containing a denial of liability.

Culpability

No

0% Enhancement

Subtotal 4 \$0

Notes

The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply

0% Reduction

Subtotal 5 \$0

Before NOV NOV to EDPRP/Settlement Offer

Extraordinary

Ordinary

N/A

X

(mark with x)

Notes

The Respondent does not meet the good faith criteria.

Total EB Amounts \$398  
Approx. Cost of Compliance \$2,7000% Enhancement\*  
\*Capped at the Total EB \$ Amount

Subtotal 6 \$0

## SUM OF SUBTOTALS 1-7

Final Subtotal \$2,580

## OTHER FACTORS AS JUSTICE MAY REQUIRE

0%

Adjustment \$0

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

Final Penalty Amount \$2,580

## STATUTORY LIMIT ADJUSTMENT

Final Assessed Penalty \$2,580

## DEFERRAL

0%

Reduction

Adjustment \$0

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes

No deferral is recommended for Findings Orders.

## PAYABLE PENALTY

\$2,580

Screening Date 30-Nov-2007

Docket No. 2007-1945-PWS-E

PCW

Respondent City of Boyd

Policy Revision 2 (September 2002)

Case ID No. 35026

PCW Revision September 19, 2007

Reg. Ent. Reference No. RN101387496

Media [Statute] Public Water Supply

Enf. Coordinator Andrea Linson-Mgbeoduru

## Compliance History Worksheet

## &gt;&gt; Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	0	0%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	1	20%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgements or consent decrees meeting criteria)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 20%

## &gt;&gt; Repeat Violator (Subtotal 3)

N/A

Adjustment Percentage (Subtotal 3) 0%

## &gt;&gt; Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

## &gt;&gt; Compliance History Summary

Compliance  
History  
Notes

Enhancement due to one prior Agreed Order containing a denial of liability.

Total Adjustment Percentage (Subtotals 2, 3, &amp; 7) 20%

<b>Screening Date</b> 30-Nov-2007 <b>Respondent</b> City of Boyd <b>Case ID No.</b> 35026 <b>Reg. Ent. Reference No.</b> RN101387496 <b>Media [Statute]</b> Public Water Supply <b>Enf. Coordinator</b> Andrea Linson-Mgbeoduru <b>Violation Number</b> <input type="text" value="1"/>	<b>Docket No.</b> 2007-1945-PWS-E <b>PCW</b> <i>Policy Revision 2 (September 2002)</i> <i>PCW Revision September 19, 2007</i>																			
<b>Rule Cite(s)</b> 30 Tex. Admin. Code § 290.41(c)(1)(C) and Agreed Order Docket No. 2005-0507-PWS E, Ordering Provision 2.c.iii.																				
<b>Violation Description</b> Failed to locate/construct all wells at a distance greater than 500 feet from animal feed lots. Specifically, Well No. 2 (G2490002B) was constructed within 100 feet of three metal barns used as feed lots where cattle congregate, as documented during the investigation conducted on October 24, 2007.																				
<b>Base Penalty</b> <input type="text" value="\$1,000"/>																				
<b>&gt;&gt; Environmental, Property and Human Health Matrix</b>																				
OR	<table border="1" style="margin: auto;"> <tr> <td></td> <th colspan="3">Harm</th> <td></td> </tr> <tr> <td><b>Release</b></td> <th>Major</th> <th>Moderate</th> <th>Minor</th> <td></td> </tr> <tr> <td>Actual</td> <td><input type="text"/></td> <td><input type="text"/></td> <td><input type="text"/></td> <td rowspan="2" style="vertical-align: middle;">Percent <input type="text" value="10%"/></td> </tr> <tr> <td>Potential</td> <td><input type="text"/></td> <td style="text-align: center;">x</td> <td><input type="text"/></td> </tr> </table>		Harm				<b>Release</b>	Major	Moderate	Minor		Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	Percent <input type="text" value="10%"/>	Potential	<input type="text"/>	x	<input type="text"/>
		Harm																		
	<b>Release</b>	Major	Moderate	Minor																
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Potential	<input type="text"/>	x	<input type="text"/>																	
<b>&gt;&gt; Programmatic Matrix</b>																				
Matrix Notes	<table border="1" style="margin: auto;"> <tr> <td></td> <th>Major</th> <th>Moderate</th> <th>Minor</th> <td></td> </tr> <tr> <td>Falsification</td> <td><input type="text"/></td> <td><input type="text"/></td> <td><input type="text"/></td> <td rowspan="2" style="vertical-align: middle;">Percent <input type="text" value="0%"/></td> </tr> <tr> <td></td> <td><input type="text"/></td> <td><input type="text"/></td> <td><input type="text"/></td> </tr> </table>		Major	Moderate	Minor		Falsification	<input type="text"/>	<input type="text"/>	<input type="text"/>	Percent <input type="text" value="0%"/>		<input type="text"/>	<input type="text"/>	<input type="text"/>					
		Major	Moderate	Minor																
	Falsification	<input type="text"/>	<input type="text"/>	<input type="text"/>	Percent <input type="text" value="0%"/>															
	<input type="text"/>	<input type="text"/>	<input type="text"/>																	
Human health or the environment will or could be exposed to a significant amount of pollutants which would not exceed levels that are protective of human health or environmental receptors as a result of the violation.																				
<b>Adjustment</b> <input type="text" value="\$900"/>																				
<input type="text" value="\$100"/>																				
<b>Violation Events</b>																				
<b>Number of Violation Events</b> <input type="text" value="9"/>		<input type="text" value="736"/> <b>Number of violation days</b>																		
mark only one with an x	daily	<input type="text"/>	<b>Violation Base Penalty</b> <input type="text" value="\$900"/>																	
	monthly	<input type="text"/>																		
	quarterly	x																		
	semiannual	<input type="text"/>																		
	annual	<input type="text"/>																		
	single event	<input type="text"/>																		
Nine quarterly events are recommended, calculated from the effective date of Agreed Order Docket No. 2005-0507-PWS-E, November 24, 2005, to the screening date November 30, 2007.																				
<b>Economic Benefit (EB) for this violation</b>		<b>Statutory Limit Test</b>																		
<b>Estimated EB Amount</b> <input type="text" value="\$138"/>		<b>Violation Final Penalty Total</b> <input type="text" value="\$1,080"/>																		
<b>This violation Final Assessed Penalty (adjusted for limits)</b> <input type="text" value="\$1,080"/>																				

**Economic Benefit Worksheet**

Respondent City of Boyd

Case ID No. 35026

Reg. Ent. Reference No. RN101387496

Media Public Water Supply

Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

**Delayed Costs**

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)	\$1,000	24-Nov-2005	31-Aug-2008	2.8	\$138	n/a	\$138

Notes for DELAYED costs

The delayed cost includes the amount to develop and maintain a procedure for testing the well on a monthly basis as to ensure the well remains uncontaminated by the cattle in close proximity to the well. The date required is the effective date of Agreed Order Docket No. 2005-0507-PWS-E. The final date is the estimated date of compliance.

**Avoided Costs**

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$1,000

TOTAL

\$138

Screening Date 30-Nov-2007

Docket No. 2007-1945-PWS-E

PCW

Respondent City of Boyd

Policy Revision 2 (September 2002)

Case ID No. 35026

PCW Revision September 19, 2007

Reg. Ent. Reference No. RN101387496

Media [Statute] Public Water Supply

Enf. Coordinator Andrea Linson-Mgbeoduru

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code § 290.41(c)(1)(F) and Agreed Order Docket No. 2005-0507-PWS-E, Ordering Provision 2.c.i.

## Violation Description

Failed to secure a sanitary control easement covering land within 150 feet of the well. Specifically, a sanitary control easement was not made available for Well No. 2 (G2490002B), as documented during the investigation conducted on October 24, 2007.

Base Penalty \$1,000

## &gt;&gt; Environmental, Property and Human Health Matrix

OR

	Harm		
Release	Major	Moderate	Minor
Actual			
Potential			x

Percent 5%

## &gt;&gt; Programmatic Matrix

	Major	Moderate	Minor
Falsification			

Percent 0%

Matrix Notes

Human health or the environment will or could be exposed to insignificant amounts of pollutants which would not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$950

\$50

## Violation Events

Number of Violation Events 1

736 Number of violation days

mark only one with an x	daily	
	monthly	
	quarterly	
	semiannual	
	annual	
	single event	x

Violation Base Penalty \$50

One single event is recommended.

## Economic Benefit (EB) for this violation

## Statutory Limit Test

Estimated EB Amount \$10

Violation Final Penalty Total \$60

This violation Final Assessed Penalty (adjusted for limits) \$60

**Economic Benefit Worksheet**

Respondent City of Boyd  
 Case ID No. 35026  
 Reg. Ent. Reference No. RN101387496  
 Media Public Water Supply  
 Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

**Delayed Costs**

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)	\$50	24-Nov-2005	31-Aug-2008	2.8	\$0	\$9	\$10
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

The delayed cost includes the amount to obtain signatures of property owners within a 150 feet radius of the well.  
 The date required is the effective date of Agreed Order Docket No. 2005-0507-PWS-E. The final date is the estimated date of compliance.

**Avoided Costs**

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$50

TOTAL

\$10

Screening Date 30-Nov-2007

Docket No. 2007-1945-PWS-E

PCW

Respondent City of Boyd

Policy Revision 2 (September 2002)

Case ID No. 35026

PCW Revision September 19, 2007

Reg. Ent. Reference No. RN101387496

Media [Statute] Public Water Supply

Enf. Coordinator Andrea Linson-Mgbeoduru

Violation Number 3

Rule Cite(s) 30 Tex. Admin. Code § 290.43(c)(8) and Agreed Order Docket No. 2005-0507-PWS-E, Ordering Provision 2.a.iii.

## Violation Description

Failed to maintain the system's 30,000 gallon elevated storage tank in accordance with American Water Works Association ("AWWA") standards. Specifically, at the time of the investigation, it was documented that the tank had rust on its lower portion.

Base Penalty \$1,000

## &gt;&gt; Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential		x	

Percent 10%

## &gt;&gt; Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

Failure to maintain the equipment in the proper condition could allow a significant amount of pollutants to enter the system which would not exceed levels that are protective of human health.

Adjustment \$900

\$100

## Violation Events

Number of Violation Events 9

736 Number of violation days

mark only one with an x	daily	
	monthly	
	quarterly	x
	semiannual	
	annual	
	single event	

Violation Base Penalty \$900

Nine quarterly events are recommended, calculated from the effective date of Agreed Order Docket No. 2005-0507-PWS-E, November 24, 2005, to the screening date November 30, 2007.

## Economic Benefit (EB) for this violation

## Statutory Limit Test

Estimated EB Amount \$194

Violation Final Penalty Total \$1,080

This violation Final Assessed Penalty (adjusted for limits) \$1,080

**Economic Benefit Worksheet**

Respondent City of Boyd  
 Case ID No. 35026  
 Reg. Ent. Reference No. RN101387496  
 Media Public Water Supply  
 Violation No. 3

Percent Interest	Years of Depreciation
5.0	15

Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Item Description No commas or \$						

**Delayed Costs**

Equipment	\$1,000	24-Nov-2005	31-Aug-2008	2.8	\$9	\$185	\$194
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

The delayed cost includes the amount to properly maintain the equipment. The date required is the effective date of Agreed Order Docket Number 2005-0507-PWS-E. The final date is the estimated date of compliance.

**Avoided Costs**

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$1,000

TOTAL

\$194

Screening Date 30-Nov-2007

Docket No. 2007-1945-PWS-E

PCW

Respondent City of Boyd

Policy Revision 2 (September 2002)

Case ID No. 35026

PCW Revision September 19, 2007

Reg. Ent. Reference No. RN101387496

Media [Statute] Public Water Supply

Enf. Coordinator Andrea Linson-Mgbeoduru

Violation Number 4

Rule Cite(s) 30 Tex. Admin. Code § 290.44(d) and Agreed Order Docket No. 2005-0507-PWS-E, Ordering Provision 2.b.vi.

Violation Description

Failed to maintain and operate the water system to provide a minimum pressure of 35 pounds per square inch ("psi") throughout the distribution system at all times. Specifically, the pressure recorded at 516 Knox Avenue was 24 psi, and 28 psi at 601 Knox Avenue, as documented during the investigation conducted on October 24, 2007.

Base Penalty \$1,000

## &gt;&gt; Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential		x	

Percent 10%

## &gt;&gt; Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

Failure to operate the water system to provide a minimum pressure of 35 psi throughout the distribution system may result in backflow problems and could compromise the system's ability to provide a safe and adequate supply of water.

Adjustment \$900

\$100

## Violation Events

Number of Violation Events 1

736 Number of violation days

mark only one with an x	daily	
	monthly	
	quarterly	
	semiannual	
	annual	
	single event	x

Violation Base Penalty \$100

One single event is recommended, based on pressure readings taken on October 24, 2007.

## Economic Benefit (EB) for this violation

## Statutory Limit Test

Estimated EB Amount \$8

Violation Final Penalty Total \$120

This violation Final Assessed Penalty (adjusted for limits) \$120

**Economic Benefit Worksheet**

Respondent City of Boyd  
Case ID No. 35026  
Reg. Ent. Reference No. RN101387496  
Media Public Water Supply  
Violation No. 4

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

**Delayed Costs**

Equipment	\$150	24-Oct-2007	31-Jul-2008	0.8	\$0	\$8	\$8
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

The delayed cost includes the amount to adjust pressure settings. The date required is the investigation date. The final date is the estimated date of compliance.

**Avoided Costs**

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$150

TOTAL

\$8

Screening Date 30-Nov-2007

Docket No. 2007-1945-PWS-E

PCW

Respondent City of Boyd

Policy Revision 2 (September 2002)

Case ID No. 35026

PCW Revision September 19, 2007

Reg. Ent. Reference No. RN101387496

Media [Statute] Public Water Supply

Enf. Coordinator Andrea Linson-Mgbeoduru

Violation Number 5

Rule Cite(s) 30 Tex. Admin. Code § 290.42(l) and Agreed Order Docket No. 2005-0507-PWS-E, Ordering Provision 2.b.iii.

## Violation Description

Failed to keep a thorough plant operations manual for operator review and reference. Specifically, a plant operations manual was not available, as documented during the investigation conducted on October 24, 2007.

Base Penalty \$1,000

## &gt;&gt; Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0%

## &gt;&gt; Programmatic Matrix

Falsification	Major	Moderate	Minor
	x		

Percent 10%

Matrix Notes

100% of the rule requirement was not met.

Adjustment \$900

\$100

## Violation Events

1

704 Number of violation days

mark only one  
with an x

daily	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$100

One single event is recommended.

## Economic Benefit (EB) for this violation

## Statutory Limit Test

Estimated EB Amount \$24

Violation Final Penalty Total \$120

This violation Final Assessed Penalty (adjusted for limits) \$120

**Economic Benefit Worksheet**

Respondent City of Boyd  
 Case ID No. 35026  
 Reg. Ent. Reference No. RN101387496  
 Media Public Water Supply  
 Violation No. 5

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

**Delayed Costs**

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System	\$250	24-Nov-2005	29-Oct-2007	1.9	\$24	n/a	\$24
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

**Notes for DELAYED costs**

The delayed cost includes the amount to develop and maintain a facility operational manual. The date required is the effective date of Agreed Order Docket No. 2005-0507-PWS-E. The final date is the date of compliance.

**Avoided Costs**

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

**Notes for AVOIDED costs**

Approx. Cost of Compliance

\$250

TOTAL

\$24

Screening Date 30-Nov-2007

Docket No. 2007-1945-PWS-E

PCW

Respondent City of Boyd

Policy Revision 2 (September 2002)

Case ID No. 35026

PCW Revision September 19, 2007

Reg. Ent. Reference No. RN101387496

Media [Statute] Public Water Supply

Enf. Coordinator Andrea Linson-Mgbeoduru

Violation Number 6

Rule Cite(s) 30 Tex. Admin. Code § 290.121(a) and Agreed Order Docket No. 2005-0507-PWS-E, Ordering Provision 2.b.i.

Violation Description

Failed to have a complete and up-to-date chemical and microbiological monitoring plan that identifies all sampling locations, describes the sampling frequency, and specifies the analytical procedures and laboratories that the public water system will use to comply with the monitoring requirements. Specifically, the facility was not utilizing a monitoring plan that indicated frequencies, all sampling locations, and methods of sampling, as documented during the investigation conducted on October 24, 2007.

Base Penalty \$1,000

## &gt;&gt; Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0%

## &gt;&gt; Programmatic Matrix

Falsification	Major	Moderate	Minor
	x		

Percent 10%

Matrix Notes

100% of the rule requirement was not met.

Adjustment \$900

\$100

## Violation Events

Number of Violation Events 1

704 Number of violation days

mark only one with an x	daily	
	monthly	
	quarterly	
	semiannual	
	annual	
	single event	x

Violation Base Penalty \$100

One single event is recommended.

## Economic Benefit (EB) for this violation

## Statutory Limit Test

Estimated EB Amount \$24

Violation Final Penalty Total \$120

This violation Final Assessed Penalty (adjusted for limits) \$120

**Economic Benefit Worksheet**

Respondent City of Boyd  
Case ID No. 35026  
Reg. Ent. Reference No. RN101387496  
Media Public Water Supply  
Violation No. 6

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

**Delayed Costs**

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)	\$250	24-Nov-2005	29-Oct-2007	1.9	\$24	n/a	\$24

Notes for DELAYED costs

The delayed cost includes the amount to develop and implement a monitoring plan. The date required is the effective date of Agreed Order Docket No. 2005-0507-PWS-E. The final date is the date of compliance.

**Avoided Costs**

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$250

TOTAL

\$24

# Compliance History

Customer/Respondent/Owner-Operator:	CN600734487	City of Boyd	Classification: AVERAGE	Rating: 1.84
Regulated Entity:	RN101387496	CITY OF BOYD	Classification:	Site Rating:
ID Number(s):	PUBLIC WATER SYSTEM/SUPPLY	REGISTRATION	2490002	
	WATER LICENSING	LICENSE	2490002	
Location:	0.5 MILES NORTH ON FARM-TO-MARKET ROAD 730 NEAR BOYD, WISE COUNTY, TEXAS			
TCEQ Region:	REGION 04 - DFW METROPLEX			
Date Compliance History Prepared:	November 20, 2007			
Agency Decision Requiring Compliance History:	Enforcement			
Compliance Period:	November 19, 2002 to November 19, 2007			
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History				
Name:	Andrea Linson-Mgbeoduru	Phone:	512-239-1482	

## Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? Yes
2. Has there been a (known) change in ownership of the site during the compliance period? No
3. If Yes, who is the current owner? N/A
4. If Yes, who was/were the prior owner(s)? N/A
5. When did the change(s) in ownership occur? N/A

## Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.
- Effective Date: 11/24/2005 ADMINORDER 2005-0507-PWS-E
- Classification: Minor
- Citation: 30 TAC Chapter 290, SubChapter D 290.42(e)(3)(D)
- Description: Failure to provide facilities for determining the amount of disinfectant used daily as well s the amount of disinfectant remaining in use.
- Classification: Minor
- Citation: 30 TAC Chapter 290, SubChapter D 290.46(f)(3)(E)(iv)
- 30 TAC Chapter 290, SubChapter D 290.46(j)
- Description: Failure to provide copies and maintain records of the Customer Service Inspection reports.
- Classification: Moderate
- Citation: 30 TAC Chapter 290, SubChapter D 290.41(c)(1)(C)
- Description: Failure to construct/locate a well at a distance greater than 500 feet from an animal feed lots, solid waste disposal sites, lands on which sewage plant or septic tank sludge is applied, or lands irrigated by sewage plant effluent.
- Classification: Minor
- Citation: 30 TAC Chapter 290, SubChapter D 290.41(c)(1)(F)
- Description: Failure to secure a sanitary control easement covering land within 150 feet of the well, or executive director approval for an authorized substitute.
- Classification: Minor
- Citation: 30 TAC Chapter 290, SubChapter D 290.42(j)
- Description: Failure to provide documentation that all chemicals and any additional or replacement process media used in the treatment of water supplied by public waer systems must conform to American National Standards Institute/National Sanitation Foundation (ANSI/NSF) Standard 60 for direct additives and ANSI/NSF Stand 61 for in
- Classification: Minor
- Citation: 30 TAC Chapter 290, SubChapter D 290.42(k)
- Description: Failure to keep a thorough plant operations manual for operator review and reference.
- Classification: Minor
- Citation: 30 TAC Chapter 290, SubChapter F 290.121
- Description: Failure to complete and maintain an up-to-date chemical and microbiological monitoring plan.
- Classification: Minor
- Citation: 30 TAC Chapter 290, SubChapter D 290.41(c)(3)(A)
- 30 TAC Chapter 290, SubChapter D 290.46(n)(3)
- Description: Failure to maintain copies of well completion data such as well material setting data, geological log, scaling information (pressure cementing and surface protection), disinfection information, microbiological sample results, and a chemical analysis report of a representative sample of water.

Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.43(c)(8)  
30 TAC Chapter 290, SubChapter D 290.46(m)(1)(A)

Description: Failure to conduct inspections to determine that all ground storage tank interior and exterior coating system so as to provide adequate protection to all metal surfaces so that the tanks remain in a watertight condition.

Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.46(f)(3)(A)(iii)

Description: Failure to maintain records of the date, location, and nature of water quality, pressure, or outage complaints received by the system and the results of any subsequent complaint investigations.

Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.38(25)  
30 TAC Chapter 290, SubChapter D 290.43(e)

Description: Failure to install all potable water storage tanks and pressure maintenance facilities in a lockable building that is designed to prevent intruder access or enclosed by an intruder resistant fence with lockable gates, as defined by rule.

Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)(4)

Description: Failure to maintain all water treatment units, storage and pressure maintenance facilities, distribution system lines, and related appurtenances in a watertight condition.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.44(d)  
30 TAC Chapter 290, SubChapter D 290.46(r)

Description: Failure to design, maintain, and operate the water system to provide a minimum pressure 35 pounds per square inch (psi) at flow rates of at least 1.5 gallons per minute per connection throughout the distribution system under normal operating conditions.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.46(d)(2)(A)

Description: Failure to maintain a free chlorine residual disinfectant concentration of at least 0.2 milligrams per liter (mg/L) continuously during the treatment process and throughout the distribution system.

B. Any criminal convictions of the state of Texas and the federal government.

N/A

C. Chronic excessive emissions events.

N/A

D. The approval dates of investigations. (CCEDS Inv. Track. No.)

1 02/23/2005 (341076)

2 11/16/2007 (600331)

E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

F. Environmental audits.

N/A

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A

# TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN  
ENFORCEMENT ACTION  
CONCERNING  
CITY OF BOYD  
RN101387496**

§ **BEFORE THE**  
§  
§ **TEXAS COMMISSION ON**  
§  
§ **ENVIRONMENTAL QUALITY**

## **AGREED ORDER DOCKET NO. 2007-1945-PWS-E**

At its \_\_\_\_\_ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding the City of Boyd ("the City") under the authority of TEX. HEALTH & SAFETY CODE ch. 341. The Executive Director of the TCEQ, through the Enforcement Division, and the City presented this agreement to the Commission.

The City understands that it has certain procedural rights at certain points in the enforcement process, including, but not limited to, the right to formal notice of violations, notice of an evidentiary hearing, the right to an evidentiary hearing, and a right to appeal. By entering into this Agreed Order, the City agrees to waive all notice and procedural rights.

It is further understood and agreed that this Order represents the complete and fully-integrated settlement of the parties. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable. The duties and responsibilities imposed by this Agreed Order are binding upon the City.

The Commission makes the following Findings of Fact and Conclusions of Law:

### **I. FINDINGS OF FACT**

1. The City owns and operates a public water supply located approximately 0.5 mile north on Farm-to-Market Road 730 near Boyd, Wise County, Texas (the "Facility") that has approximately 543 service connections and serves at least 25 people per day for at least 60 days per year.



2. During an investigation on October 24, 2007, TCEQ staff documented that the City did not locate/construct all wells at a distance greater than 500 feet from animal feed lots. Specifically, Well No. 2 (G2490002B) is within 100 feet of three metal barns used as a feed lot where cattle congregate.
3. During an investigation on October 24, 2007, TCEQ staff documented that the City did not secure a sanitary control easement covering land within 150 feet of the well. Specifically, a sanitary control easement was not made available for Well No. 2 (G2490002B).
4. During an investigation on October 24, 2007, TCEQ staff documented that the City did not maintain the system's 30,000 gallon elevated storage tank in accordance with American Water Works Association ("AWWA") standards. Specifically, at the time of the investigation, it was documented that the tank had rust on its lower portion.
5. During an investigation on October 24, 2007, TCEQ staff documented that the City did not maintain and operate the water system to provide a minimum pressure of 35 pounds per square inch ("psi") at flow rates of at least 1.5 gallons per minute per connection throughout the distribution system under normal operating conditions. Specifically, the pressure recorded at the Little Jacket's Child Care Center at 516 Knox Avenue was 24 psi, and 28 psi at 601 Knox Avenue.
6. During an investigation on October 24, 2007, TCEQ staff documented that the City did not keep a thorough plant operations manual for operator review and reference. Specifically, a plant operations manual was not available.
7. During an investigation on October 24, 2007, TCEQ staff documented that the City did not have a complete and up-to-date chemical and microbiological monitoring plan. Specifically, the Facility was not utilizing a monitoring plan that indicated frequencies, all sampling locations, and methods of sampling.
8. The City received notice of the violations on November 16, 2007.
9. The Executive Director recognizes that the City has implemented the following corrective measures at the Facility as of October 29, 2007:
  - a. Submitted a copy of a complete and up-to-date plant operations manual for operator review and reference, in accordance with 30 TEX. ADMIN. CODE § 290.42(k) and Agreed Order Docket No. 2005-0507-PWS-E, Ordering Provision 2.b.iii.; and
  - b. Submitted a copy of a complete an up-to-date chemical and microbiological monitoring plan, in accordance with 30 TEX. ADMIN. CODE § 290.121(a) and Agreed Order Docket No. 2005-0507-PWS-E, Ordering Provision 2.b.i.



## II. CONCLUSIONS OF LAW

1. The City is subject to the jurisdiction of the TCEQ pursuant to TEX. HEALTH & SAFETY CODE ch. 341 and the rules of the Commission.
2. As evidenced by Findings of Fact No. 2, the City failed to locate/construct all wells at a distance greater than 500 feet from animal feed lots, in violation of 30 TEX. ADMIN. CODE § 290.41(c)(1)(C) and Agreed Order Docket No. 2005-0507-PWS-E, Ordering Provision 2.c.iii.
3. As evidenced by Findings of Fact No. 3, the City failed to secure a sanitary control easement covering land within 150 feet of the well, in violation of 30 TEX. ADMIN. CODE § 290.41(c)(1)(F) and Agreed Order Docket No. 2005-0507-PWS-E, Ordering Provision 2.c.i.
4. As evidenced by Findings of Fact No. 4, the City failed to maintain the system's 30,000 gallon elevated storage tank in accordance with AWWA standards, in violation of 30 TEX. ADMIN. CODE § 290.43(c)(8) and Agreed Order Docket No. 2005-0507-PWS-E, Ordering Provision 2.a.iii.
5. As evidenced by Findings of Fact No. 5, the City failed to maintain and operate the water system to provide a minimum pressure of 35 pounds per square inch ("psi") throughout the distribution system at all times, in violation of 30 TEX. ADMIN. CODE § 290.44(d) and Agreed Order Docket No. 2005-0507-PWS-E, Ordering Provision 2.b.vi.
6. As evidenced by Findings of Fact No. 6, the City failed to keep a thorough plant operations manual for operator review and reference, in violation of 30 TEX. ADMIN. CODE § 290.42(l) and Agreed Order Docket No. 2005-0507-PWS-E, Ordering Provision 2.b.iii.
7. As evidenced by Findings of Fact No. 7, the City failed to complete and maintain an up-to-date chemical and microbiological monitoring plan, in violation of 30 TEX. ADMIN. CODE § 290.121(a) and Agreed Order Docket No. 2005-0507-PWS-E, Ordering Provision 2.b.i.
8. Pursuant to TEX. HEALTH & SAFETY CODE § 341.049, the Commission has the authority to assess an administrative penalty against the City for violations of the Texas Health & Safety Code within the Commission's jurisdiction; for violations of rules adopted under such statutes; or for violations of orders or permits issued under such statutes.
9. An administrative penalty in the amount of Two Thousand Five Hundred Eighty Dollars (\$2,580) is justified by the facts recited in this Agreed Order, and considered in light of the factors set forth in TEX. HEALTH & SAFETY CODE § 341.049(b). Two Thousand Five Hundred Eighty Dollars (\$2,580) shall be conditionally offset by the City's completion of a Supplemental Environmental Project ("SEP") as set forth in Attachment A.



### III. ORDERING PROVISIONS

NOW, THEREFORE, THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY ORDERS that:

1. The City is assessed an administrative penalty in the amount of Two Thousand Five Hundred Eighty Dollars (\$2,580) as set forth in Section II, Paragraph 9 above, for violations of TCEQ rules and state statutes. The payment of this administrative penalty and the City's compliance with all the terms and conditions set forth in this Agreed Order completely resolve the violations set forth by this Agreed Order in this action. However, the Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations that are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: City of Boyd, Docket No. 2007-1945-PWS-E" to:

Financial Administration Division, Revenues Section  
Attention: Cashier's Office, MC 214  
Texas Commission on Environmental Quality  
P.O. Box 13088  
Austin, Texas 78711-3088

2. The City shall implement and complete a SEP in accordance with TEX. WATER CODE § 7.067. As set forth in Section II, Paragraph 9 above, Two Thousand Five Hundred Eighty Dollars (\$2,580) of the assessed administrative penalty shall be offset with the condition that the City implement the SEP defined in Attachment A, incorporated herein by reference. The City's obligation to pay the conditionally offset portion of the administrative penalty assessed shall be discharged upon final completion of all provisions of the SEP agreement.
3. The City shall undertake the following technical requirements:
  - a. Within 30 days after the effective date of this Agreed Order, begin operating the water system to provide a minimum pressure of 35 psi throughout the distribution system at all times, in accordance with 30 TEX. ADMIN. CODE §§ 290.44, 290.45 and 290.46.
  - b. Within 60 days after the effective date of this Agreed Order:
    - i. Secure a sanitary easement covering all property within 150 feet of the well location from adjacent landowners and record the deeds at the county courthouse, as required by 30 TEX. ADMIN. CODE § 290.41 and submit sanitary easements and exception requests to:

Texas Commission on Environmental Quality  
Water Supply Division, Technical Review & Oversight Team  
P. O. Box 13087, MC-155  
Austin, Texas 78711-3087



- ii. Ensure that livestock are not within 500 feet of the well location, as required by 30 TEX. ADMIN. CODE § 290.41, or obtain an exception to the rule, in accordance with 30 TEX. ADMIN. CODE § 290.39(l); and
  - iii. Refurbish the 30,000 gallon elevated storage tank to meet AWWA standards, including but not limited to removing the rust on the lower portion of the tank, as required by 30 TEX. ADMIN. CODE §§ 290.43 and 290.46.
- c. Within 75 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 3.a. and 3.b. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

“I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.”

The certification shall be submitted to:

Order Compliance Team  
Enforcement Division, MC 149A  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087

with a copy to:

Water Section, Manager  
Dallas/Fort Worth Regional Office  
Texas Commission on Environmental Quality  
2301 Gravel Drive  
Fort Worth, Texas 76118-6951

- 4. The provisions of this Agreed Order shall apply to and be binding upon the City. The City is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
- 5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the City shall be made in writing to the Executive Director. Extensions are not effective until the City receives written



writing to the Executive Director. Extensions are not effective until the City receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.


6. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to the City if the Executive Director determines that the City has not complied with one or more of the terms or conditions in this Agreed Order.
7. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
8. This Agreed Order, issued by the Commission, shall not be admissible against the City in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
9. This agreement may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreement may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.
10. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties. By law, the effective date of this Agreed Order is the third day after the mailing date, as provided by 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142.



## SIGNATURE PAGE

### TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

\_\_\_\_\_  
For the Commission

  
\_\_\_\_\_  
For the Executive Director

\_\_\_\_\_  
Date

6/2/2008

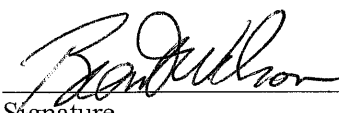
I, the undersigned, have read and understand the attached Agreed Order in the matter of the City of Boyd. I am authorized to agree to the attached Agreed Order on behalf of the City of Boyd, and do agree to the specified terms and conditions. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I understand that by entering into this Agreed Order, the City of Boyd waives certain procedural rights, including, but not limited to, the right to formal notice of violations addressed by this Agreed Order, notice of an evidentiary hearing, the right to an evidentiary hearing, and the right to appeal. I agree to the terms of the Agreed Order in lieu of an evidentiary hearing. This Agreed Order constitutes full and final adjudication by the Commission of the violations set forth in this Agreed Order.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.

  
\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

MARCH 14, 2008

BRENT WILSON  
\_\_\_\_\_  
Name (Printed or typed)  
Authorized Representative of  
City of Boyd

\_\_\_\_\_  
Title

MAYOR

**Instructions:** Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenues Section at the address in Section IV, Paragraph 1 of this Agreed Order.



Attachment A  
Docket Number: 2007-1945-PWS-E

**SUPPLEMENTAL ENVIRONMENTAL PROJECT**

<b>Respondent:</b>	<b>City of Boyd</b>
<b>Payable Penalty Amount:</b>	<b>Two Thousand Five Hundred Eighty Dollars (\$2,580)</b>
<b>SEP Amount:</b>	<b>Two Thousand Five Hundred Eighty Dollars (\$2,580)</b>
<b>Type of SEP:</b>	<b>Pre-approved</b>
<b>Third-Party Recipient:</b>	<b>Texas Association of Resource Conservation and Development Areas, Inc. ("RC&amp;D")- Water or Wastewater Treatment Assistance</b>
<b>Location of SEP:</b>	<b>Wise County</b>

The Texas Commission on Environmental Quality ("TCEQ") agrees to offset a portion of the administrative Penalty Amount assessed in this Agreed Order for the Respondent to contribute to a Supplemental Environmental Project ("SEP"). The offset is equal to the SEP Amount set forth above and is conditioned upon completion of the project in accordance with the terms of this Attachment A.

**1. Project Description**

**A. Project**

The Respondent shall contribute to the Third-Party Recipient pursuant to the agreement between the Third-Party Recipient and the TCEQ. Specifically, Third-Party Recipient shall repair or replace failing water systems or on-site wastewater systems for low income homeowners. Third-Party Recipient shall use SEP Funds to pay for the labor and materials costs related to repairing or replacing the failing systems. The recipients will not be charged for the cost of replacing or repairing the failing systems. Third-Party recipient shall use a consistent and documented system for determining eligible participants.

The Respondent certifies that there is no prior commitment to do this project and that it is being performed solely in an effort to settle this enforcement action.

**B. Environmental Benefit**

This SEP will provide a discernible environmental benefit by protecting water sources for drinking, recreation, and wildlife from contamination.

**C. Minimum Expenditure**

The Respondent shall contribute at least the SEP Amount to the Third-Party Recipient and comply with all other provisions of this SEP.



## **2. Performance Schedule**

Within 30 days after the effective date of this Agreed Order, the Respondent must contribute the SEP Amount to the Third-Party Recipient. The Respondent shall mail the contribution, with a copy of the Agreed Order, to:

Texas Association of Resource Conservation and Development Areas, Inc.  
1716 Briarcrest Drive, Suite 510  
Bryan, Texas 77802-2700

## **3. Records and Reporting**

Concurrent with the payment of the SEP Amount, the Respondent shall provide the TCEQ SEP Coordinator with a copy of the check and transmittal letter indicating full payment of the SEP Amount to the Third-Party Recipient. The Respondent shall mail a copy of the check and transmittal letter to:

Enforcement Division  
Attention: SEP Coordinator, MC 219  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087

## **4. Failure to Fully Perform**

If the Respondent does not perform its obligations under this SEP in any way, including full payment of the SEP Amount and submittal of the required reporting described in Section 3 above, the Executive Director may require immediate payment of all or part of the SEP Amount.

The check for any amount due shall be made out to "Texas Commission on Environmental Quality" and mailed to:

Texas Commission on Environmental Quality  
Financial Administration Division, Revenues  
Attention: Cashier, MC 214  
P.O. Box 13088  
Austin, Texas 78711-3088

The Respondent shall also mail a copy of the check to the TCEQ SEP Coordinator at the address in Section 3 above.

## **5. Publicity**

Any public statements concerning this SEP made by or on behalf of the Respondent must include a clear statement that the project was performed as part of the settlement of an enforcement action brought by the TCEQ. Such statements include advertising, public relations, and press releases.



**6. Clean Texas Program**

The Respondent shall not include this SEP in any application made to TCEQ under the "Clean Texas" (or any successor) program(s). Similarly, the Respondent may not seek recognition for this contribution in any other state or federal regulatory program.

**7. Other SEPs by TCEQ or Other Agencies**

The SEP identified in this Agreed Order has not been, and shall not be, included as an SEP for the Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.

